

IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

C.Z., a minor, by and through his natural
guardians, RENEE ZAPATA and CHRISTIAN
ZAPATA and J.T.K., a minor by and
through his natural guardians, QUINTIN
KINNEY and STACY KINNEY,

CASE NO.

Plaintiffs,

v.

OPTIMIST INTERNATIONAL,
a Missouri Corporation,

Defendant.

**COMPLAINT FOR DAMAGES
ARISING OUT OF SEXUAL ABUSE AGAINST CHILDREN**

Plaintiffs, C.Z. and J.T.K.,¹ by and through undersigned counsel, hereby sue Defendant
OPTIMIST INTERNATIONAL, a Missouri Corporation, and state as follows:

JURISDICTION AND VENUE

1. This is an action against Defendant Optimist International, for its role in the debacle of retaining a sexual predator, David Solomon (“Solomon”), as a Baseball Coach at its subsidiary and agent, The Optimist Club of Cooper City, Inc. (“Optimist Club”), who previously sexually abused multiple children as a Coach and who pled guilty to sexually molesting Plaintiffs and was able to do so as a result of his position at Optimist Club.

¹ The names “C.Z.” and “J.T.K.” are pseudonyms to protect the identity of the plaintiffs as victims of child abuse and child sex abuse pursuant to Fla. Stats. §119.071(2)(h) and §119.0714(1)(h) and Rule 2.420(c) of the Florida Rules of Judicial Administration.

2. Plaintiffs seek damages in excess of Fifteen Thousand Dollars (\$15,000.00), exclusive of any claim for attorney's fees, interest, or costs. The incomprehensible harm caused to these defenseless children cannot be adequately quantified in words in this Complaint.

3. Optimist International asserts that its vision is that it "will be recognized worldwide as the premier volunteer organization that values all children and helps them develop to their full potential." Yet, as shown herein, it has little value for children or the desire to develop them. Indeed, by allowing pedophiles to infest its organization, it does just the opposite.

4. This action involves Optimist International's agent's hiring and retention of Solomon, who it knew to have prior, multiple instances of sexual abuse on children. Despite this knowledge it hired and retained Solomon, who continued his sexual acts, this time on the two innocent Plaintiffs. Optimist Club did so because it followed the suggested policies and procedures of its parent corporation, Optimist International.

5. The predator, Solomon, pled guilty to sexually abusing Plaintiffs and was sentenced to 12 years in prison.

6. Were it not for the remarkable courage of these young victims to come forward, this tragic wrongdoing would have continued to occur to countless other children.

7. Optimist Club had a heightened awareness of the dangers of permitting pedophiles access to children - a softball umpire for the Optimist Club was convicted in 2011 of molesting a teen girl; yet it was powerless to prevent this tragedy from happening due to the policies of Optimist International.

8. One questions how the community would permit a youth organization to hire pedophile after pedophile to prey on the community's children, when these pedophile's records are public and known by Defendant's agent. The young victims were subjected to sexual abuse;

which will lead to a lifetime of pain and anguish – a level of indelible pain the magnitude of which few can appreciate unless they are survivors themselves.

9. The causes of action alleged herein accrued in Broward County, Florida, and venue in this Court is therefore proper.

10. Optimist International does business in the State of Florida through, *inter alia*, South Florida District of Optimist International Incorporated (“South Florida District”), which has its address at 17455 SW 33rd Court, Miramar, Florida 33029.

11. The Bylaws of Optimist International provide that the “sole purpose of [each] District shall be to function as an administrative division of Optimist International.”

THE PARTIES

12. Plaintiffs were residents of the State of Florida at all pertinent times.

13. Plaintiffs are former participants in the Optimist Club program and were each coached by Solomon.

14. Optimist International is a corporation incorporated in the State of Missouri and created and required the Optimist Club to comply with certain of Optimist International’s policies and procedures.

15. Optimist International asserts that its Mission is “by providing hope and positive vision, Optimists bring out the best in youth, our communities and ourselves.”

16. Optimist International asserts that its vision is that it “will be recognized worldwide as the premier volunteer organization that values all children and helps them develop to their full potential.”

17. Optimist International claims its purposes include to “aid and encourage the development of youth.”

18. Optimist provides all the information and support to start a local club (each a “Club”), including providing all protocol for running an organization, recruitment and retention, professional development, forms and documents, among other things.

19. Showing the control over local organizations, Optimist International provides numerous documents for local organizations, including but not limited to:

- a. Club Organization;
- b. How to Recruit Members;
- c. Standard Club Bylaws;
- d. Club Reporting;
- e. Board of Directors documents;
- f. Club and District Protocol;
- g. Club Budgets and Finances;
- h. Club Meetings;
- i. Club Nominations;
- j. Club Officer Installation Ceremonies;
- k. Club Secretary and Treasurer duties and requirements;
- l. Club Vice President duties and requirements
- m. Summaries of Insurance needs/requirements;
- n. New Member Induction;
- o. Sample Club Dues Invoice
- p. Tax Exempt letter forms;
- q. Program Resources;

- r. Marketing Information, including Club Marketing, PR kits, branding guidelines, social networking and other directives;
- s. How to Run a Meeting;
- t. How to Do an Elevator Speech;
- u. How to Install a Member;
- v. How to Run a Club Meeting;
- w. Leadership Practices;
- x. ABCs of Project Development
- y. Optimist Project Fundraising
- z. Professional Development Programs; and
- aa. New Club Building;
- bb. Among other offerings.

20. Indeed, Optimist International explains at length in its materials how local organizations should use its organizational models and documents.

21. Yet, you will not see any materials that aid Clubs in how to detect and deter the hiring or retention of coaches and others that may be predators who will have direct contact with children.

22. You will not see any materials that inform parents of the protections that must be in place to hire and retain safe coaches and other leaders, or how to detect or report potential instances of abuse.

23. There are no documents even showing that Optimist International is against the hiring of coaches or other leaders that may have pedophile tendencies, or anything on how they screen out potential predators.

24. In addition, Optimist International recommended that Optimist Club comply with its policy regarding the method that the volunteers had their background checks conducted, and the faulty criteria/filter used to screen out pedophiles. This policy was identical to the policy that Optimist International used to vet its Officers, including its President-Elect, Vice President-Elect, and all Board of Directors members.

25. As explained in greater detail below, this faulty background check procedure permitted a pedophile access to children regardless of previous acts of pedophilia or sexual assault, as long as the person was not actually *convicted* of the crimes. This and related acts are torts which occurred within Broward County, Florida.

FACTS COMMON TO ALL COUNTS

26. The children of South Florida and their families, including Plaintiffs, relied on Optimist International to ensure the safety of their children during youth sport events, practice, and related activities at Clubs Optimist International set up and undertook to monitor and run.

27. The children of South Florida and their families, including Plaintiffs, relied on the statements made by Optimist International that these Optimist Club and organizations like it were safe for their children and did not employ dangerous or predatory persons.

28. The children of South Florida and their families, including Plaintiffs, relied on Optimist International and its suggested policies and procedures to screen coaches and other employees/volunteers at Optimist Club for any indicator that they were pedophiles and, when clear indicators existed that there was a risk that they were pedophiles, that these indicators would be taken into account and not swept under the rug away from prying eyes.

29. Plaintiffs and their families trusted Solomon, who abused this trust to commit horrific and disgusting crimes against Plaintiffs that will leave them scarred for life.

The Relationship Between Optimist International and Optimist Club

30. Optimist International is an organization which serves local communities in part by providing infrastructure and organizational structure so that children can participate in sports activities. It accomplishes this through more than 2,500 Clubs. Optimist Club is one such Club.

31. Optimist International exerts significant control over Optimist Club, to such an extent that Optimist Club is the agent of Optimist International. Said control is exhibited in, but not limited to, the following ways:

- a. Optimist International solicits donations through the work its “member Clubs” perform.
- b. Optimist International only performs its actual mission, *i.e.*, helping children, through its member Clubs. Optimist International has undertaken to administer these member Clubs. Optimist International has no separate purpose and cannot accomplish its mission or its purpose without Clubs like Optimist Club.
- c. Optimist International maintains the power to completely control the policies and procedures conducted by its member Clubs, including the policies regarding background checks for its members. These policies are found in, but are not limited to: (i) Optimist International’s By-laws; (ii) Optimist International’s directives to its member Clubs; (iii) rules that Optimist International periodically sets for its member Clubs; and (iv) a code of conduct for member Clubs; and (v) minutes from meetings conducted by Optimist International regarding member Clubs.
- d. Optimist International audits and controls its member Clubs and maintains authority to eliminate Clubs through “merger” at Optimist International’s exclusive discretion.
- e. Optimist International has rules and guidelines for what must be contained in its member Club by-laws.
- f. Optimist International maintains directions and criteria for each of its Clubs, including Optimist Club. Further, Optimist International requires that its Clubs, including Optimist Club, must regularly report to Optimist International a variety of matters. These requirements and instructions are greater than the typical “franchise” arrangement.
- g. The particular forms and policies of Optimist Club are derived from the forms and policies established by Optimist International. Optimist International specifically

recommends that its Optimist Club agents shall only be screened if they have criminal *convictions*.

- h. Optimist Club was established only after permission was sought from Optimist International and the Board of Directors of Optimist International approved the creation of Optimist Club.
 - i. Optimist International provides every imaginable guideline, form and document for the local organization (Optimist Club).
32. The Optimist Club facilitates leagues for children's sports, particularly, baseball, basketball, beach volleyball, cheerleading, golf, flag football, soccer, softball, and tackle football under the supervision and control of Optimist International. The Optimist Club employs various people to perform tasks associated with children's sports.

Optimist International's Background Check Policy

33. As part of their duties, employees and volunteers of the Optimist Club are permitted unsupervised access to children.

34. Optimist International did not inform parents of its policy, which it recommended Optimist Club to follow, of allowing coaches who have abused children to participate as coaches, just as long as they were not criminally convicted of child rape.

35. Solomon worked as a coach at Optimist Club, the agent of Optimist International.

36. At the time that Solomon was hired by Cooper City Optimist Baseball, records already existed which should have revealed that Solomon was a pedophile or at high risk of being a pedophile. Particularly, Solomon was arrested and charged with the felony molestation of two boys under the age of 14 in the year 2000. The following cases are associated with this:

- a. Florida v. Solomon, 00-CF-17039 (Miami-Dade County, Fla. Crim. 2000) regarding Felony Lewd and Lascivious Molestation of a Child between the ages of 12 and 16.

- b. Florida v. Solomon, 00-CF-17040 (Miami-Dade County, Fla. Crim. 2000) regarding Felony Lewd and Lascivious Molestation of a Child between the ages of 12 and 16.
- c. Florida v. Solomon, 00-CF-31637 (Miami-Dade County, Fla. Crim. 2000) regarding Felony Lewd and Lascivious Molestation of a under the age of 12.

37. Furthermore, Solomon's actions resulted in a lawsuit filed against him and his employer in M, M (Minor) v. Solomon, David, 03-CA-020734-01 (Miami-Dade County, Fla. Circuit Civil 2003).

38. These criminal and civil complaints against Solomon were readily discoverable on the internet by a simple Google search, let alone a detailed background check of the type required or that should be required to be allowed unsupervised access, and in a position of power and trust, to children. Indeed, had Optimist Club conducted even cursory due diligence in its background check of Solomon, it would have discovered that Solomon entered into a Pretrial Diversion Agreement as to the criminal action in ¶ 36(b) above, in which he agreed to, *inter alia*, reside in a setting with no female minors, have no unsupervised contact with minors, avoid teaching in schools and entering any profession or engaging in any activity which involves the teaching, coaching, supervision of, or contact with minor children.

39. Optimist International knew, or should have known, that pedophilic sexual assault has a high rate of recidivism.

40. Optimist International knew, or should have known, that those who commit pedophilic sexual assault tend to have many victims.

41. Optimist International knew, or should have known, that those who commit pedophilic sexual assault tend to hide their intentions and cover up their activities.

42. Optimist International knew, or should have known, that being charged with a sexual offense against a child is an indicator that someone is potentially a dangerous pedophile, regardless if the criminal charge leads to a conviction.

43. Optimist International knew, or should have known, that those who commit pedophilic sexual assault tend to seek jobs or volunteer positions in which they would work with children, such as with Optimist Club.

44. It is reasonably foreseeable that a pedophile would seek access to children and seek to victimize children through institutions which lead to unsupervised meetings with children and adults, such as is done with Optimist International and Optimist Club.

45. It is reasonably foreseeable that children and their families would rely on the Optimist International and Optimist Club to provide them with a safe environment, because of the heightened vulnerability that children have when being coached.

46. Optimist International knew, or should have known, that a background check is a critically important to ensure the safety of the children under the care of Optimist International and its agents. Background checks are a critical first step in assessing applicants for jobs or volunteer positions whom will be working with and have access to children.

47. Indeed, the Board of Directors of Optimist International was told by its then Past Vice President, Claire Labrèche, and then East Ontario Governor, Robert Doyle, on July 3, 2013:

Organizations such as Optimist Clubs that work with children are vulnerable to attracting members/volunteers who want to access and sexually abuse kids, and infiltration of clubs by such individuals can potentially cause great harm to children and negatively impact the reputation and goodwill of Optimist International and of Optimist Clubs, be it by civil lawsuits, criminal charges or damaging media coverage. The vast majority of sex offenders do not have a criminal record and thus criminal record checks do not enable volunteer organizations to weed out pedophiles and sex offenders, and Optimist Clubs consequently need to go beyond criminal record checks and take additional steps to ensure the safety of children in their care by implementing effective risk management policies and programs.

48. On behalf of the Board of Directors, Director Chris Jernigan then thanked Ms. Labrèche and Mr. Doyle for their presentation. Despite this, Optimist International did not change or amend their flawed background check policy, which only screened for criminal convictions.

49. A rudimentary background check of Solomon would have revealed the allegations regarding Solomon and disqualified him from a position where he could prey on children.

50. Optimist International found it okay to allow a person such as Solomon, who had used an earlier coaching position to molest and sexually abuse children, was terminated from his last coaching job for molesting and sexually abusing children, and had been charged with multiple felonies for molesting and sexually abusing children, to coach children. Indeed, pursuant to Optimist International's background check policy, Solomon would have been able to be the President of Optimist International, and thus run and control every single Member Club Optimist International had in the world.

51. These policies and procedures regarding the background checks were developed by Optimist International. Optimist International suggested its member organizations, including Optimist Club, use these procedures regarding background checks that it developed and implemented itself with respect to its executive officers and directors. Optimist International would update these procedures from time to time, and would require compliance with any policy or procedure it deemed fit by all of its subsidiary Clubs, including Optimist Club.

52. Optimist Club's "Background Screening Policy," suggested to it by Optimist International, stated:

A person will be disqualified and prohibited from serving as a volunteer if the person has been found guilty of the following crimes. Guilty means that a person was found guilty following a trial, entered a guilty plea, entered a no contest plea accompanied by a court finding of guilty, regardless of whether there was an adjudication of guilt (conviction) or a withholding of guilt.

53. Further, under the Background Screening Policy: “Anyone who has been charged for any of the disqualifying offenses or for cases pending in court will not be permitted to volunteer until the official adjudication of the case.” Further, “ONLY THE ABOVE CRITERIA WILL BE INCLUDED ON BACKGROUND SCREENING REPORTS – NOTHING ELSE!” [emphasis in original].

54. Under the Background Screening Policy, as it is explicitly and clearly described, anyone who committed a sexual assault on children was permitted to be a coach and otherwise have access to children as long as there was no criminal conviction for that action.

55. Limiting a background check to only criminal convictions bizarrely limits the screening process of sexual predators for no apparent reason. As described above, there are many other publicly available methods to review a candidate’s propensity to sexually abuse children. This criterion shows an utter disregard for the safety of children because it does not screen candidates who have actually sexually abused children. For example, under this policy, a person convicted of homosexual sex between consenting adults would specifically be barred from being a coach, while a person who has sexually abused and molested dozens of children victims, been charged with crimes of abusing and molesting children, and who publicly paid a settlement for his sexual abuse and molestation of children could be a coach so long as he did not get “convicted” for what he did. Equally reprehensible, the parents would have no idea they were sending their children into such an extraordinarily dangerous environment.

56. Brian Kraus, one of the baseball commissioners with the Optimist Club, claimed that Solomon passed the “comprehensive background test.”

57. According to Optimist Club, Solomon passed the background check requirements established by Optimist International.

58. The prior incidents of sexual assaults and pedophilia were present on the background check - but were ignored.

59. The existence of the criminal and civil complaints against Solomon gave rise to an enhanced duty of inquiry into Solomon's background.

60. Optimist International should have had policies and procedures in place to require an enhanced inquiry into Solomon's background.

61. A basic background check did or should have found that Solomon sexually abused and molested dozens of children victims prior to applying to be a coach with Optimist Club, that Solomon was charged with crimes of abusing and molesting children in Miami prior to applying to be a coach with Optimist Club, and that Solomon was involved in a settlement for his sexual abuse and molestation of children prior to applying to be a coach with Optimist Club.

62. Optimist Club failed to inquire as to the past incidences of pedophilia which appeared on Solomon's background check because it was forbidden from doing so by the policies that Optimist International developed and suggested to Optimist Club.

63. Optimist International knew, or should have known, that prospective employees/volunteers like Solomon are dangerous pedophiles, and that employing people like him as coaches would put children under its care at risk.

64. Optimist Club could not disqualify Solomon from coaching children under its care due to the Optimist International policy.

65. Optimist International knew or should have known that its policy would result in its coaching positions being sought after and filled by pedophiles and sexual predators who have not yet been convicted of their crimes.

66. Upon information and belief, Optimist International created, enforced, and enacted such a flawed policy out of the mistaken belief that it could selfishly seek to shield itself from liability. Instead, Optimist International created a policy that allowed sexual predators to use the platform, resources, and goodwill of Optimist International and its subsidiaries like Optimist Club.

67. By allowing this policy to stand, Optimist International failed to take action to protect the current players and future players of Optimist International and Optimist Club, including the Plaintiffs, from risk of serious harm from Solomon.

68. Optimist International made several misrepresentations in order to induce children and families into believing that the Optimist Club was a positive and safe environment. For example, Defendant falsely represented:

- a. “By providing hope and a positive vision, Optimists brings out the best in kids.”
- b. “We are dedicated to ‘Bringing Out the Best in Kids.’ Let your voice be heard. Make a difference in a child’s life.”
- c. “Individuals who have committed sexual offenses against children may be denied membership and/or have their membership revoked.”

69. Optimist Club could not disqualify and thus maintained Solomon in his capacity as a coach and continued to allow him unfettered and unmonitored access to vulnerable children due to Optimist International’s policies.

70. In 2014, Plaintiffs C.Z. and J.T.K. were participants in Optimist Club activities. Solomon was assigned by the Optimist Club to coach C.Z. and J.T.K. At no time and in no manner, did Optimist International and Optimist Club warn or otherwise protect C.Z. and J.T.K. or their parents of the dangers presented by Solomon.

71. Through the platform, resources, and reputation of Optimist International and Optimist Club, Solomon and the other coaches were trusted by C.Z., J.T.K., and their respective families.

The Crimes of Solomon

72. Beginning early 2014, when Plaintiffs C.Z. and J.T.K. were 11 years old, Solomon used the relationship he formed with them as their baseball coach to facilitate repeated sexual molestation, abusing them on multiple occasions.

73. Solomon inflicted his molestation and sexual assault on C.Z. and J.T.K. in a very similar matter. Upon information and belief, this process was inflicted on many other young boys. This molestation and sexual assault occurred on many occasions.

74. Particularly, Solomon would create circumstances where boys that he coached, including C.Z. and J.T.K., (the “Victims”), would be alone with Solomon or with other boys who were being molested by Solomon. Solomon would touch the Victim(s) sexually, claiming it was only a game.

75. Solomon’s actions included sexual touching on the Victim(s)’s private parts by Solomon reaching into the Victim’s underwear, groping and rubbing of the penis in a maneuver that Solomon called “the claw,” forced unclothing of the Victim followed by a manipulation of the Victim’s underwear along the crack of the buttocks in in a maneuver that Solomon called a “wedgie,” reaching into the back of the pants and underwear rubbing and inserting a finger into the anus in a maneuver that Solomon called a “wedgie bush.”

76. This touching and molestation occurred multiple times to each of the Victims.

77. On each of these occasions, Solomon would pretend like this was only a game or otherwise tell the victim not to tell anyone.

78. In addition to all of the above, Solomon would also touch his Victim in other ways which appeared to be non-sexual touches, such as wrestling, back-scratches, and other social touches. While these touches appeared to be non-sexual touches, they were in fact intended for the sexual gratification of the pedophilic urges of Solomon. Such acts disrupt emotional well-being of the victims associated with personal and sexual intimacy as well as interpersonal relationships. Because of the concurrence of molestation, these touches acted to harm and aggravate the damages caused by the molestation to the emotional health of the Victims.

79. The above described actions were inflicted on both Plaintiffs, C.Z. and J.T.K. Further acts of abuse and molestation specific to the individual Plaintiffs are described below.

80. C.Z. was molested at Solomon's home and during a sleep over. C.Z. attended a Florida Panthers Hockey game with "Coach David" and other teammates from his baseball team.

81. After the game, he was invited to spend the night. As C.Z. was trying to fall asleep, "Coach David" entered the guest bedroom and had taken C.Z.'s penis and started rubbing it in a jerking fashion which caused C.Z. to wake up.

82. On one occasion, C.Z. tried to push "Coach David" away from him and "Coach David" told him that it was part of the "bro-code" and that he had to do these things without resisting.

83. As for J.T.K., he was invited to a sleepover at "Coach David's" house where he was directed to sleep in the guest room.

84. That night "Coach David" entered the guest room when J.T.K. was half asleep and sat down at the end of the bed. J.T.K. didn't ever wear a shirt to sleep because it was always too hot, he only slept in shorts.

85. “Coach David” pulled the covers off of him and started to rub his back and inappropriately touch him, causing J.T.K. to freeze in fear.

86. On many occasions “Coach David” would touch J.T.K.’s thigh and rub his private parts under his shorts going through the pant leg or at the waist band.

87. Had Optimist International not directed Optimist Club to use a faulty policy that permitted pedophiles to be near children, the above harm never would have occurred.

88. Had Optimist Club been allowed to not ignore “Coach David’s” past record and not place him into a position of authority and trust, the above harm would never have occurred.

89. But for the actions of Optimist International, the Plaintiffs would not have been injured.

90. At no time and in no manner did Optimist International warn or otherwise protect C.Z. and J.T.K., or their parents, of the dangers presented by its policies allowing the employment of Solomon.

91. At no time did Optimist International and Optimist Club notify the parents and other members of the club of Solomon’s previous molestation charges.

92. The failure of Optimist International and Optimist Club to take any action to alert members and parents to the danger posed by Solomon was negligent and a reckless disregard for the immediate safety of children and the welfare of Solomon’s victims.

93. As a proximate result of Optimist International’s failure to warn/inform its members’ parents of its policies, C.Z. and J.T.K. have suffered aggravated mental harm, including a deepening of psychic injuries, promoting the development of intractable long-term sequelae, including post-traumatic stress disorder and recurring major depressive episodes. In the same

manner, the necessary personal and medical recovery process for each victim has been rendered harder and longer, with a profound increase in pain and suffering.

94. As a direct result of the Plaintiffs' valor in reporting these matters to law enforcement, Solomon was charged by the State Attorney of the 17th Judicial Circuit with 18 counts of lewd and lascivious molestation charges.

95. Solomon ultimately plead guilty to lewd and lascivious molestation charges involving the two young victims. He has been sentenced to 12 years in prison and 10 years' probation.

96. Neither Optimist International nor its agent, Optimist Club, have since informed any parents about Solomon's sexual abuse of children in Optimist International and Optimist Club programs, nor have they informed any parents of Solomon's conviction.

97. The wrongful conduct of Optimist International and Solomon, as more particularly described herein, was willful, wanton, gross, malicious, and heinous.

COUNT I: NEGLIGENCE/GROSS NEGLIGENCE

98. Plaintiffs reallege and incorporate paragraphs 1-97.

99. Defendant Optimist International, by undertaking to impose and/or recommend policies upon member Clubs (including Optimist Club), assumed a duty to act reasonably and carefully when imposing and/or recommending policies upon its member Clubs; and to prevent undue risk to others from the policies it imposed and/or recommended.

100. Therefore, Optimist International owed Plaintiffs the non-delegable, non-discretionary duty to establish policies and procedures that reasonably established and promoted child health, safety and welfare, ensured adequate training and supervision of those adults acting

in loco parentis, ensured adequate governance of Clubs, ensured adequate training of children and minimized and mitigated the risk of infiltration by sexual predators.

101. Optimist International reasonably knew a breach of its duty would probably and most likely result in injury to children who participate in activities at Optimist Club.

102. Optimist International breached that duty by, *inter alia*, failing to recommend and/or impose: (i) adequate hiring policies and procedures; (ii) adequate training for staff, volunteers and children regarding appropriate relationship boundaries, recognition of improper conduct and grooming conduct, and child safeguarding; (iii) adequate policies and procedures for reporting misconduct; (iv) adequate governance, governance procedures and training regarding child health, welfare and safety; (v) an adequate background screening policy that would have adequately safeguarded Plaintiffs and the tens of thousands of other children similarly situated from sexual predators.

103. As a direct, proximate, and foreseeable result of the aforementioned breaches, Plaintiffs suffered and will continue to suffer resulting pain and suffering, disability, mental anguish, loss of capacity for the enjoyment of life, loss of capacity to earn income, medical care, and need for further treatment.

104. The losses are either permanent or continuing in nature and Plaintiffs will suffer such losses in the future. Furthermore, Plaintiffs will require services and treatment for the rest of their lives due to the severe psychological trauma and other harm they have endured.

105. Solomon pled guilty to four counts of Sexual Battery against a person who is twelve (12) years of age or older but younger than eighteen (18) years of age as defined in Florida Statute 794.011(8)(b), a felony punishable by a sentence of life imprisonment, and fourteen (14) counts of Lewd or Lascivious Molestation as defined in Florida Statute 800.04(5)(c), a felony punishable

by a sentence not exceeding fifteen (15) years imprisonment, for the crimes he committed against Plaintiffs.

WHEREFORE, Plaintiffs demand judgment against Defendant Optimist International in an amount exceeding \$15,000 for compensatory damages, costs, and all other such relief as the Court may deem just and proper.

**COUNT II: VICARIOUS LIABILITY FOR THE NEGLIGENCE/
GROSS NEGLIGENCE OF THE OPTIMIST CLUB OF COOPER CITY, INC.**

106. Plaintiffs reallege and incorporate paragraphs 1-97.

107. Optimist Club owed Plaintiffs the following non-delegable, non-discretionary duties:

- a. To establish and promote child health, safety and welfare.
- b. To provide adequate training and supervision of those adults acting *in loco parentis* of Plaintiffs and other children similarly situated.
- c. To establish adequate governance of Clubs.
- d. To provide adequate training for children.
- e. To establish policies and procedures that minimized and mitigated the risk of infiltration by sexual predators.

108. Optimist Club also had a duty to conduct an investigation into Defendant Solomon's background. This duty became enhanced/broadened when Optimist Club became aware of the past allegations against Solomon after the background check. This duty required Optimist Club to review and investigate the molestation allegations before hiring Solomon or otherwise making him an agent of Optimist Club and putting children under his care.

109. Optimist Club had a special duty to protect the children under their care from the conduct of their agents, even if that conduct is a crime, because there is a "special relationship" between Optimist Club and their coaches and the minor children that Optimist Club served.

110. This special relationship is an enhanced duty on behalf of Optimist Club because Solomon was being placed into a position of authority over children.

111. Pursuant to Florida law, persons and entities whom place persons into positions of authority over children or otherwise teach children have a duty to control these persons and prevent these persons from harming children.

112. Optimist Club directed, encouraged, and facilitated close relationships between players of Optimist Club and its coaches.

113. This facilitation of close relationships is exemplified in part as clearly shown on Optimist Club's member invitation brochure: "By providing hope and positive vision, Optimists bring out the best in kids."

114. Solomon was an agent, employee, and official of Optimist Club.

115. In the conduct of directing, encouraging, and facilitating close relationships between players of Optimist Club and its coaches, Optimist Club knew or should have known that Solomon presented a profound risk of harm to Plaintiffs and other children.

116. In connection with its activities, Optimist Club owed a duty to protect Plaintiffs and other children enrolled in the Club from harm by exercising reasonable care in the selection and authorization of agents, employees, and officials, such as Solomon, so as to prevent injury to children like the Plaintiffs.

117. Optimist Club had a duty to supervise and control adult agents, members, and coaches, including Solomon, who came into contact with children, including the Plaintiffs.

118. At all relevant times, Optimist Club knew or should have known that its coaches, including but not limited to Solomon, were or would be placed in a position of great trust by members such as Plaintiffs and Plaintiff's parents for the supervision and welfare of children.

119. Despite having actual or constructive knowledge of the potential danger presented by Solomon and his dangerous, damaging, and criminal acts, Optimist Club failed to act to prevent him from harming the Plaintiffs and failed to warn Plaintiffs and others of the danger.

120. Not only did Optimist Club fail to uphold its duties, Optimist Club followed policies and procedures that actually facilitated the unlawful actions of Solomon and which had the effects of:

- a. Providing Solomon with a safe haven to surreptitiously gain access to child victims;
- b. Allowing Solomon, as a known child sexual predator, to continue to access minor children without providing any warning to responsible adults; and
- c. Prevented due warning to parents of the risk of child abuse and child sexual abuse within the community.

121. Optimist Club breached its non-discretionary, non-delegable duties and failed to use reasonable care; as a result, Plaintiffs were placed in and maintained in dangerous and abusive environments where they were subject to an unreasonable risk of being sexually abused and were sexually abused.

122. As a direct, proximate, and foreseeable result of the negligence of Optimist Club, Plaintiffs suffered and will continue to suffer resulting pain and suffering, disability, mental anguish, loss of capacity for the enjoyment of life, loss of capacity to earn income, medical care, and need for further treatment.

123. The losses are either permanent or continuing in nature and Plaintiffs will suffer such losses in the future. Furthermore, Plaintiffs will require services and treatment for the rest of their lives due to the severe psychological trauma and other harm they have endured.

124. Solomon pled guilty to four counts of Sexual Battery against a person who is twelve (12) years of age or older but younger than eighteen (18) years of age as defined in Florida Statute

794.011(8)(b), a felony punishable by a sentence of life imprisonment, and fourteen (14) counts of Lewd or Lascivious Molestation as defined in Florida Statute 800.04(5)(c), a felony punishable by a sentence not exceeding fifteen (15) years imprisonment, for the crimes he committed against Plaintiffs.

125. As alleged in greater detail above, Optimist Club was an agent of Optimist International at all times material to this Complaint.

126. At all material times, Optimist Club was acting within the scope of its agency, and therefore, Optimist International is vicariously liable for the negligent and grossly negligent acts of Optimist Club as described in this Count.

WHEREFORE, Plaintiffs demand judgment against Defendant Optimist International in an amount exceeding \$15,000 for compensatory damages, costs, and all other such relief as the Court may deem just and proper.

**COUNT III: VICARIOUS LIABILITY
FOR THE NEGLIGENT HIRING, RETENTION,
AND/OR SUPERVISION OF THE OPTIMIST CLUB OF COOPER CITY, INC.**

127. Plaintiffs reallege and incorporate paragraphs 1-97.

128. It is reasonably foreseeable that a dangerous predator or pedophile would seek employment or access to children. It is also reasonably foreseeable that a dangerous predator or pedophile would seek to coach with the Optimist Club. It is also reasonably foreseeable that a dangerous predator or pedophile would hide his or her intentions when seeking employment or access to children. It is also reasonably foreseeable that dangerous predators of children and pedophiles would have a criminal record or records of arrests, because these types of persons often are repeat offenders and offend their entire lives. It is also reasonably foreseeable that the only or

best method of catching these dangerous predators or pedophiles is to conduct a comprehensive background check.

129. Optimist Club had an affirmative duty to Plaintiffs to properly screen, supervise, investigate, discipline, and terminate its employees to prevent and redress harm to Plaintiffs.

130. A proper investigation would have or did reveal Solomon's unsuitability for the duties of a coach or otherwise being around children unsupervised.

131. At the time of hiring or otherwise permitting Solomon access to children, Optimist Club knew or should have known that hiring Solomon would be an unreasonable risk.

132. Particularly, Optimist Club should have recognized that prior criminal charges for child molestation is indicative of future potential harm to children.

133. It was unreasonable for the Optimist Club to ignore a past history of pedophilia or accusations of pedophilia and to hire Solomon regardless.

134. Optimist Club was negligent and breached its duty of care to prevent harm to Plaintiffs by failing to screen, supervise, investigate, discipline, and protect Plaintiffs from abusive conduct by Solomon.

135. As a direct, proximate, and foreseeable result of Optimist Club's failures and breach of its duty, the Plaintiffs suffered the harms described herein.

136. As a direct, proximate, and foreseeable result of the negligence of Optimist Club, Plaintiffs suffered and will continue to suffer resulting pain and suffering, disability, mental anguish, loss of capacity for the enjoyment of life, loss of capacity to earn income, medical care, and need for further treatment.

137. The losses are either permanent or continuing in nature and Plaintiffs will suffer such losses in the future. Furthermore, Plaintiffs will require services and treatment for the rest of their lives due to the severe psychological trauma and other harm they have endured.

138. Solomon pled guilty to four counts of Sexual Battery against a person who is twelve (12) years of age or older but younger than eighteen (18) years of age as defined in Florida Statute 794.011(8)(b), a felony punishable by a sentence of life imprisonment, and fourteen (14) counts of Lewd or Lascivious Molestation as defined in Florida Statute 800.04(5)(c), a felony punishable by a sentence not exceeding fifteen (15) years imprisonment, for the crimes he committed against Plaintiffs.

139. As alleged in greater detail above, Optimist Club was an agent of Optimist International at all times material to this Complaint. At all material times, Optimist Club was acting within the scope of its agency, and therefore, Optimist International is vicariously liable for the negligent acts of Optimist Club as described in this Count.

WHEREFORE, Plaintiffs demand judgment against Defendant Optimist International in an amount exceeding \$15,000 for compensatory damages, costs, and all other such relief as the Court may deem just and proper.

**COUNT IV: VICARIOUS LIABILITY FOR THE
SEXUAL BATTERY AND INTENTIONAL INFLECTION OF
EMOTIONAL DISTRESS COMMITTED BY DAVID SOLOMON**

140. Plaintiffs reallege and incorporate paragraphs 1-97.

141. Between November 1, 2014 and June 30, 2015, specifically including but not limited to April 9, 2015 and May 17, 2015, David Solomon committed numerous sexual batteries against Plaintiff C.Z. when he touched intimate areas of Plaintiff C.Z.'s body and person in an offensive and sexual manner when C.Z. was a minor child.

142. As alleged with greater specificity in paragraphs 72 thorough 82 above, Solomon intentionally touched Plaintiff C.Z.'s private areas multiple times against the will of C.Z.

143. Solomon's tortious commission of sexual battery upon Plaintiff C.Z. was done willfully.

144. Between May 4, 2014 and July 20, 2015, specifically including but not limited to April 11, 2015 and May 2, 2015, J.T.K. when he touched intimate areas of Plaintiff J.T.K.'s body and person in an offensive and sexual manner when J.T.K. was a minor child.

145. As alleged with greater specificity in paragraphs 72-29 and 83-86 above, Solomon intentionally touched Plaintiff J.T.K.'s private areas multiple times against the will of J.T.K.

146. Solomon's tortious commission of sexual battery upon Plaintiff J.T.K. was done willfully.

147. Solomon's extreme and outrageous conduct towards the minor Plaintiffs was intentional and reckless.

148. Solomon acted with the intent to cause severe emotional distress or with reckless disregard for the high probability of causing emotional distress.

149. Solomon pled guilty to four counts of Sexual Battery against a person who is twelve (12) years of age or older but younger than eighteen (18) years of age as defined in Florida Statute 794.011(8)(b), a felony punishable by a sentence of life imprisonment, and fourteen (14) counts of Lewd or Lascivious Molestation as defined in Florida Statute 800.04(5)(c), a felony punishable by a sentence not exceeding fifteen (15) years imprisonment, for the crimes he committed against Plaintiffs.

150. As a direct, proximate, and foreseeable result of the sexual battery and intentional infliction of emotional distress committed by Solomon as described herein, Plaintiffs suffered and

will continue to suffer resulting pain and suffering, disability, mental anguish, loss of capacity for the enjoyment of life, loss of capacity to earn income, medical care, and need for further treatment.

151. The losses are either permanent or continuing in nature and Plaintiffs will suffer such losses in the future. Furthermore, Plaintiffs will require services and treatment for the rest of their lives due to the severe mental and emotional trauma and other harm they have endured.

152. Solomon was an agent, employee, and official of Optimist Club.

153. Solomon was placed in a position where members such as Plaintiffs and Plaintiff's parents trusted him due to his position with Optimist Club.

154. By virtue of his position with Optimist Club, Solomon was placed in a position that aided his commission of the torts and crimes he committed against Plaintiffs.

155. As a direct, proximate, and foreseeable result of the offences committed by Solomon, Plaintiffs suffered and will continue to suffer resulting pain and suffering, disability, mental anguish, loss of capacity for the enjoyment of life, loss of capacity to earn income, medical care, and need for further treatment.

156. The losses are either permanent or continuing in nature and Plaintiffs will suffer such losses in the future. Furthermore, Plaintiffs will require services and treatment for the rest of their lives due to the severe mental and emotional trauma and other harm they have endured.

157. As alleged in greater detail above, Optimist Club was an agent of Optimist International at all times material to this Complaint.

158. At all material times, Optimist Club was acting within the scope of its agency, and therefore, Optimist International is also vicariously liable for the crimes and torts of Solomon, who was the agent, employee, and official of Optimist Club.

WHEREFORE, Plaintiffs demand judgment against Defendant Optimist International in

an amount exceeding \$15,000 for compensatory damages, punitive damages, costs, and all other such relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury of all issues so triable.

Dated this 24th day of September, 2019.

/s/ Scott A. Mager
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